

BOSTON REDEVELOPMENT AUTHORITY

REPORT AND DECISION ON THE APPLICATION OF THE STEARNS COMPANY FOR THE AUTHORIZATION AND APPROVAL OF A PROJECT UNDER MASSACHUSETTS GENERAL LAWS (TER.ED.) CHAPTER 121A AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, TO BE UNDERTAKEN AND CARRIED OUT BY A LIMITED PARTNERSHIP FORMED UNDER M.G.L. CHAPTER 109, AND APPROVAL TO ACT AS AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP UNDER SAID CHAPTER 121A.

A. The Hearing. A public hearing was held at 2 p.m. on November 2, 1978, in the offices of the Boston Redevelopment Authority (hereinafter called the "Authority"), at the New City Hall, Room 921, Boston, Massachusetts 02201, by the Authority on an Application, dated August 28, 1978, (hereinafter called the "Application"), filed by The Stearns Company for authorization and approval of a redevelopment project under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and Chapter 652 of the Acts of 1960, as amended, (hereinafter called the "Project"), due notice of said hearing having been given previously by publication on October 23, 1978, and October 30, 1978, in the Boston Herald American, a daily newspaper of general circulation published in Boston, and mailing postage prepaid in accordance with Rule 8 of the Rules and Regulations of the Authority for securing approval of Chapter 121A projects, and in accordance with the provisions of Section 13 of Chapter 652 of the Acts of 1960, as amended. Robert L. Farrell, Chairman of the Authority, James G. Colbert, Joseph J. Walsh, James K. Flaherty and James E. Cofield, Jr., members of the Authority, were present throughout the hearing.

B. The Project. The Project Area consists of 11,102 square feet of land upon which is one large eleven-story structure, owned by Joseph S. Steinberg, et al, of 140 Tremont Street Realty Trust under a Declaration of Trust dated October 21, 1979. The Project Area is bounded on the southeast, southwest, and northeast by Temple Place, on the northwest by Tremont Street, and on the northeast and southeast by land of the Cathedral Church of St. Paul. A full metes and bounds description is contained in the Application. The Project consists of acquisition, rehabilitation, operation, and maintenance of the Project Area by the 121A Entity of 140 units of housing for low and moderate income persons, and some basement and ground level commercial space, approximately 7,700 square feet. All of the units in the proposed Project will receive rental assistance under the Section 8 program, being Section 8 of the U.S. Housing Act of 1937, as amended, or a similar rental or subsidy program, and preference will be given to elderly applicants.

Approximately four (4) of the units will be efficiency units, one hundred thirty-six (136) will be one-bedroom units and approximately fourteen (14) will be specially designed for the handicapped. The appurtenant facilities will include a top floor community area, a tenant lounge on each floor, a laundry room, and first floor security office.

C. Authority Action. In passing upon the Application, the Authority has considered the Application itself, all documents, plans and exhibits filed therewith or referred to therein, the oral evidence presented at the hearing, the exhibits offered in evidence at the hearing, arguments and statements made at the hearing.

The Project as defined in the Application, constitutes a Project within the meaning of Section 1 of Chapter 121A of the General Laws, providing as it does, for the purchase, rehabilitation, operation and maintenance in a blighted, open, decadent or substandard area of a decent, safe and sanitary residential building, commercial space, and appurtenant facilities.

D. Project Area. The Project Area is located in what is defined in the City's Master Plan as The Central Business District and in the opinion of the Applicant is presently a blighted, open and decadent area as defined in Chapter 121A, detrimental to the safety, health, morals, welfare and sound growth of the community by virtue of the fact that it would be unduly costly to develop due to the deterioration of the existing building and the abandonment of the previous use of the building. The Project Area qualifies as a decadent area since the building is out of repair, physically deteriorated, obsolete and vacant, and in need of major repair. In addition, due to the substantial changes in the business and economic conditions in the immediate neighborhood during the past decade, it is improbable that the Project Area will be redeveloped by the ordinary operations of private enterprise. Its continued use solely for commercial purposes is infeasible and the only possible use of the premises is for housing with government support.

The above factors constitute a combination of conditions which make it evident that the Project Area cannot be developed consistent with the safety, health, morals, welfare and sound growth of the community in which the Project Area is located without 121A assistance.

Without the aids available under G.L. Chapter 121A that the real estate taxes be limited to contain percentages of the project's estimated gross annual income, which percentage levels can only be lawfully agreed to by the City of Boston under G.L. Chapter 121A and Chapter 6A, the Project Area would not be developed. These conditions and other factors referred to in the Application and this Report and Decision warrant the carrying out of the Project in accordance with Chapter 121A. The proposal constitutes a "project" within the meaning of that statute.

For these reasons it is found that the Project Area is a decadent substandard area within the meaning of Chapter 121A, as amended. It is unlikely that the conditions will be remedied by the ordinary operations of private or public enterprise.

The Project will provide substantial financial return to the City of Boston. The 6A Tax Agreement attached to the Application sets forth the Agreement to be entered into between the City of Boston and the Applicants. This Agreement provides in substance that there be paid to the City of Boston in lieu of real estate taxes for a period that would be coterminous with the U.S. Department of Housing and Urban Development's Subsidy Program, an amount over the excise payable under General Laws, Chapter 121A, Section 10. From initial loan closing on the project until the end of the first year, the owner will pay the amount calculated on the basis of the minimum excise tax formula (5% of gross rental income plus \$10 per \$1000 of fair cash value of the property. During the second

calendar year of construction to completion of construction, the Project will pay the minimum excise tax plus 10% of the gross residential income including subsidy from the project. In the first two years following completion of the project 10% of the gross residential income, 12% of gross residential income in the third calendar year and 1 % increase every third year until the project is paying a maximum of 15%. In addition to the tax payment scheduled outlined above on the residential component of the project, the owner will make payments in lieu of taxes on gross rental income received from all retail/commercial space leased on the property based on the following schedule:

Commencing in the first calendar year after completion, and for each year thereof twenty-three (23%) per cent of gross rental income from all retail/commercial space on the property.

Every third year, thereafter, the rate will increase by 3%, until the maximum rate of 30% of gross rental income is obtained for retail/commercial space; (i.e., rate will increase to 26% in 4th year after completion, 29% in the 7th year and 30% in the 10th year and each year thereafter until the end of the agreement.

Twenty (20%) per cent of the total residential units in the Building will be marketed by the Developers as conventional (non-subsidized), "market-rate" housing for a period of at least three (3) months prior to the issuance of the Certificate of Occupancy for the building.

If, after said initial marketing period, less than 20% of the total residential units have not been rented as conventional market-rate housing, the Developers will continue to market for such purpose a number of units equal to the difference between said 20% and the number of units so rented, up to a maximum of 10% of the total residential units in the Building, for an additional three-month period.

For all "non-subsidized" or "market" housing units in the project, taxes will be calculated on the basis of the following rate schedule:

In the first calendar year after completion of construction, twelve (12%) per cent of gross rental income from the "market" units.

In the second calendar year after completion seventeen (17%) per cent of gross income.

In the third calendar year after completion and for the next two years thereafter, twenty-three (23%) per cent of gross income from the market units.

Commencing in the sixth (6th) calendar year after completion, and each year thereafter, taxes will increase in proportion to the increase in proportion to the increases in the City's tax levy on similar type of residential property, adjusted to reflect the new tax rate structure under 100% valuation, and subject to HUD approval.

To insure that the marketing efforts undertaken by the Developers and/or their marketing representatives has been effective and that every reasonable effort has been made by the Developers to market the market rate (non-subsidized) units, designated staff from the Boston Redevelopment Authority will be assigned to work with the Developers and/or their marketing representatives in formulation and implementing the marketing strategy for these units. All marketing efforts undertaken by the Developers should be reviewed and approved by the Staff assigned to the effort. All such marketing shall be subject to applicable HUD and/or MHFA requirements.

E. Cost of the Project. In the opinion of the Authority, the cost of the Project has been realistically estimated in the Application and the Project is practicable. The estimated cost is approximately Three Million (\$3,000,000.00) Dollars. The project as proposed will be financed by the Applicant, using mortgage funds from institutional lenders to pay most of the actual costs of conversion and equity funds contributed by the general partners of the Applicant and investors who will be admitted as limited partners of the Applicant. Investor's funds will be available for use as necessary for hard costs of conversion as well as for fees charged for the development of the Project.

Upon completion of conversion of the Project, tenants will be eligible to receive Section 8 housing assistance payments. Moreover, the general partners would expect to take necessary steps to qualify for other means of governmental assistance if available.

The assistance provided by 121A is important to the economics of the Project at a number of identifiable stages. This is clearly demonstrated by a comparison of the recent assessed valuations and property tax bills on the Project Area with the requirements of HUD for the further development of the Project.

The costs of the Project are expected to be financed by the Applicant in one of two ways: the first method would be with construction financing made available by New England Merchants National Bank or other institutional lender, MHFA under a mortgage insured by HUD, in amount equal to 90% of the total replacement cost of the Project, and permanent financing from MHFA or from Governmental National Mortgage Association ("GNMA") pursuant to its Multi-family Tandem Program. Under the terms of the MHFA law, the construction financing, which will be used to pay for the costs of rehabilitation, will be made at an interest rate of one-half per cent ($\frac{1}{2}\%$) above the cost of money borrowed by MHFA until the completion of the Project, plus an up to one and one-half per cent ($1\frac{1}{2}\%$) MHFA financing fee.

The second method of financing would be to obtain construction and permanent mortgage financing from a conventional institutional lender in an amount equal to approximately ninety percent (90%) of the total cost of the Project.

The Applicant proposes to reuse the remaining capital required to pay for the cost of the Project through the offering and sale of limited partnership interests in the Chapter 121A Entity.

The following are all the persons, natural or corporate, who have or will have, directly or indirectly, any beneficial interest in the Project:

The Stearns Company and its General and Limited Partners;
Massachusetts Housing Finance Agency, or other construction lenders;
Boston Redevelopment Authority;
United States Department of Housing and Urban Development;
GNMA or other permanent lenders.

The Project will be assisted by rental assistance under Section 8 of the U.S. Housing Act of 1937, as amended. Under the Section 8 Program, HUD pays that amount of the fair market rent for an apartment that exceeds 25% of the tenant's income. The Application contains the Corporate Articles of Organization for The Stearns Company, Limited Partnership, illustrating the corporate purposes and structure.

F. Consistency with Master Plan. The Project does not conflict with the Master Plan for the City of Boston.

G. Effect of the Project. The Project will not be in any way detrimental to the best interests of the public or the City or to the public safety or convenience or be inconsistent with the most suitable development of the City. The Project will, in fact, forward the best interests of the City and will constitute a public use and benefit. The structure to be rehabilitated under the Project has been reviewed by the Design Review Staff of the Authority and is subject to further design review should the proposed design change in any way. The Authority finds that this Project will enhance the general appearance of the Area.

The carrying out of the Project will not involve the relocation of any families.

The Project Area does not include land within any location approved by the State Department of Public Works for the extension of the Massachusetts Turnpike into the City of Boston.

H. Environmental Considerations. To conform with the provisions of Section 6 of Chapter 30 of the General Laws (as inserted by Chapter 781 of the Acts of 1972) and the Regulations thereunder as adopted by the Authority on April 11, 1974, the Project must comply with the City of Boston Air Pollution Control Commission's Regulations for the Control of Atmospheric Pollution and Regulations for the Control of Noise during all phases of construction activities.

1. The Project does not adversely affect any recreational areas or any aesthetic values in the surrounding area.
2. No natural or man-made places are affected by the Project.
3. The Project does not adversely affect archeological or historical structures or features. It is expected that the Project will enhance the historic structures in the Area.
4. The Project does not affect the potential use, extraction or conservation of a scarce natural resource.
5. The Project Area is urban and therefore does not serve as a habitat for wildlife or fish species.
6. Being urban, the Project has no impact on any wilderness areas.
7. The Project will require deviations from the Zoning Code and the Building Code of the City of Boston as further detailed herein, but not in such manner as will cause damage to the environment.

8. The Project does not involve the disposal of potentially hazardous materials.
9. The Project does not involve the construction of facilities in a flood plain.
10. The Project, except necessarily during the construction phase, does not result in the generation of a significant amount of noise or dust.
11. The Project does not result in a deleterious effect on the quality of any portion of the State's air or water resources.
12. The Project does not affect an area of important scenic value.

As a result of the investigation and Report of the Authority's staff and of its own knowledge, the Authority hereby determines that the Project will not cause significant environmental damage and that the Secretary of the Authority be instructed to file such with said Executive Office of Environmental Affairs its Report and finding in accordance with the Authority's Rules and Regulations.

I. Minimum Standards. The minimum standards for financing, construction, maintenance and improvement of the Project as set forth in the Application, are hereby adopted and imposed as Rules and Regulations, (in addition to those hereinafter adopted and imposed) applicable to this Project for the same period as the Project is subject to the provisions of Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, as amended.

In addition to the minimum standards set forth in the Application, the Authority hereby requires that the Applicants, prior to obtaining a building permit, (1) enter into a Regulatory Agreement with the Authority pursuant to the requirements of General Laws, Chapter 121A, Section 18C, and containing such other terms and conditions as the Authority may in its discretion

deem necessary and appropriate; (2) submit to the Authority for its review and approval such plans and specifications from the Project as the Authority may require and accept such changes and modifications thereto as the Authority may deem necessary or appropriate, and (3) adhere to such design review controls and requirements as the Authority may in its discretion impose.

The carrying out of the Project will not require a permit for the erection, maintenance and use of a garage within 500 feet of one or more buildings occupied in whole or in part as a public or private school having more than 50 pupils, or as a public or private hospital having more than 25 beds, or as a Church.

The Project does not require a declaration that the buildings contemplated constitute a separate building for the purpose of General Laws, Chapter 138.

J. Zoning and Building Code Deviations. Proposed Deviations filed with and attached to the Application lists the zoning and building deviations. For the reasons set forth in the Application and the evidence presented at the hearing, the Authority hereby finds that the attached zoning deviations, attached hereto and incorporated by reference as Exhibit A, are necessary for the carrying out of the total project and therefore granted without substantially derogating from the intent and purposes of the applicable laws, codes, ordinances and regulations, respectively.

K. Duration of Period of Tax Exemption. In addition to the base term of fifteen (15) calendar years for the Project's period of tax exemption, pursuant to the provisions of section 10 of Chapter 121A, as amended by Chapter 827 of the Acts of 1975, the Authority hereby determines that the Project shall be entitled an extension of twenty-five (25) years beyond the base period. This determination is based upon the fact that the Applicant's Project is financed and subsidized in part by both State and Federal programs adopted to assist the construction of low and moderate-income housing.

L. Decision. For all of the reasons set forth in the foregoing report the Authority hereby approves the undertakings by the Applicant of the Project pursuant to Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, subject to the provisions set forth in this Report and Decision.

EXHIBIT A

CITY OF BOSTON ZONING CODE DEVIATIONS

I. Usable open space per dwelling unit. The Boston Zoning Code requires 50 feet of usable open space per dwelling unit. The Project will have no open space. This condition results from the fact that the Project involves the conversion of an existing structure. The Boston Common is across the street, however, and therefore as a practical matter no usable open space should be required.

II. Since the Project consists of the rehabilitation of an existing structure for which no exterior changes can be made, deviations to take account of existing conditions are hereby requested as follows:

	<u>Required</u>	<u>Existing</u>
a. Front Yard	15 feet	None
b. Rear Yard	13.1 feet off Tremont Street	None
or Side Yard	28.9 feet off Temple Place	None

MEMORANDUM

November 16, 1978

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT J. RYAN, DIRECTOR

SUBJECT: REPORT AND DECISION ON THE CHAPTER 121A
APPLICATION OF THE STEARNS COMPANY

On November 2, 1978, the Authority conducted a public hearing with respect to the above-captioned Application. At that meeting the Board heard a presentation by the Applicants.

The Project consists of the acquisition of the site from 140 Tremont Street Realty Trust and the rehabilitation, operation and maintenance of 140 units of low and moderate income housing as well as 7,700 square feet of commercial space. The Project will receive Section 8 rental assistance.

The staff has examined the application and found that it contained sufficient evidence in support of the Project to permit the Authority to make those findings and determinations necessary to proceed with the approval of the Project.

It is, therefore, recommended that pursuant to Chapter 121A of the General Laws, the Authority adopt the Report and Decision, approving the Project.

An appropriate vote follows:

VOTED: that the document presented at this meeting entitled, "Report and Decision on the Application of The Stearns Company for the Authorization and Approval of a Project under Massachusetts General Laws (Ter. Ed.) Chapter 121A, as Amended, and Chapter 652 of the Acts of 1960, to be Undertaken and Carried Out by a Limited Partnership Formed under MGL Chapter 109, and Approval to Act as an Urban Redevelopment Limited Partnership under said Chapter 121A," be and is hereby approved and adopted.

